

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 GOLO, LLC,

4 Plaintiff,

5 -vs.-

6 ZOCO PRODUCTIONS, LLC; HARPO PRODUCTIONS,
7 INC.; MEHMET OZ, M.D.; and KERI GLASSMAN,

8 Defendants.

9 Civil Action No. 1:17-cv-08461-KBF
10

11 620 Eighth Avenue
12 New York, New York

13 January 16, 2018
14 10:05 a.m.

15 DEPOSITION of KERI GLASSMAN, before Michele
16 Moskowitz, a shorthand reporter and Notary Public
17 of the State of New York.

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Transcript of Keri Glassman
Conducted on January 16, 2018

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1 A P P E A R A N C E S:

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1 A P P E A R A N C E S: (Cont'd)

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3 BALLARD SPAHR LLP

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12 ALSO PRESENT:

13 Chris Lundin

14 Lexi Schofield

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1 K E R I G L A S S M A N , after having first
2 been duly sworn by a Notary Public of the
3 State of New York, was examined and
4 testified as follows:

5 (Document Bates stamped

6 GLASSMAN0001-C through GLASSMAN0120-C was
7 marked Exhibit 72 for identification, as of
8 this date.)

9 EXAMINATION BY

10 MR. TILLERY:

11 Q. Please state your name for the
12 record.

13 A. Keri Glassman, K-E-R-I
14 G-L-A-S-S-M-A-N.

15 Q. Good morning, Ms. Glassman. As you
16 know, my name is Kelly Tillery from Pepper
17 Hamilton. I represent the plaintiff GOLO, LLC,
18 in this action in which you are one of the
19 defendants. We're here to take your deposition
20 in this case. I'm here to ask you a number of
21 questions about the claims that have been made
22 against you and the other defendants and any
23 defenses that you have raised.

24 So I'm going to be asking you a
25 number of questions. The court reporter is

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1 by e-mail?

2 A. No.

3 Q. Or communicated with them by
4 telephone?

5 A. No.

6 Q. By fax or any other electronic means?

7 A. No.

8 Q. First time you met them the day of
9 the shoot of the show in question?

10 A. Yes.

11 Q. Okay. We'll get to that in a minute.

12 A. Yup.

13 Q. All right. So now we have the
14 universe of documents that you produced that are
15 responsive. I thank you for that. We're going
16 to go through them, but let's get some
17 preliminaries out of the way.

18 First I want to go through your
19 background and your credentials, your education.

20 So let's start with high school. Where did you
21 go to high school? When did graduate? And I
22 apologize for asking for dates, but I have to.

23 A. I have no issues with any of it. I
24 went to Weston High School in Weston,
25 Massachusetts, and I graduated in 1991.

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1 Q. Okay. Then what did you do?
2 A. I went to Tufts University in
3 Medford, Massachusetts, and I graduated in 1995.
4 Q. With what kind of degree?
5 A. Bachelor's of science degree.
6 Q. So '93 at Tufts?
7 A. '95 I graduated from Tufts.
8 Q. Okay. The bachelor's of science
9 degree?
10 A. Yes.
11 Q. Did you have a major there or a minor
12 there?
13 A. Political science.
14 Q. And a minor?
15 A. Concentration in philosophy.
16 Q. Did you go on to work thereafter or
17 go for further schooling?
18 A. I went to work.
19 Q. Where did you work?
20 A. Sports Illustrated.
21 Q. Doing what?
22 A. I was an advertising sales assistant.
23 Q. Where were you located?
24 A. In New York City.
25 Q. For how long?

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1 A. I worked there from approximately
2 July, August 1995 to approximately July, August
3 1997.

4 Q. Then what did you do?

5 A. Then I went to NYU for my master's in
6 clinical nutrition.

7 Q. How long did you attend NYU to get
8 that degree?

9 A. So I want to say -- I had to do my
10 prerequisites, so I did some of my prerequisite
11 science classes that I did not have from Tufts at
12 NYU and I did some of them at -- a couple I think
13 science classes at Baruch, that was probably for
14 six months or so, and maybe one class at NYU and
15 then I was finally probably done in 1998.

16 The only reason I hesitate is that if
17 you ask me more questions about this, I'll tell
18 you when you get your degree in nutrition and you
19 become a dietitian, it's separate from getting
20 your master's. And you can become a dietitian
21 without your master's. I became a dietitian
22 before I had completed every master's class. So
23 I think I became a dietitian in '98 and I think
24 it was probably that beginning of '99 I had one
25 more class and then I -- so let's say 1999 I had

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1 my master's in clinical nutrition from NYU.

2 Q. Okay. And you said you became a
3 dietitian. Can you tell me what that involves,
4 who certifies you as such, what courses or
5 whatever you have to take? How do you become a
6 dietitian?

7 A. Yeah, absolutely. So if you are a
8 registered dietitian, you have -- you have at
9 minimum a bachelor's of science degree in
10 clinical nutrition. In this case I have a
11 master's degree in clinical nutrition. And so
12 there's certain required class work that you need
13 to take. They're national requirements.

14 Whether it's in your bachelor's or
15 your master's, you have to take them in order to
16 do a dietetic internship, which is also a
17 nationally approved program. And that internship
18 includes 1200 hours of supervision at hospitals
19 that are part of the program.

20 Q. Where --

21 A. Then you take a national test and
22 then in order to keep your registered dietitian
23 credentials, you need to take 75 credits every
24 five years.

25 Q. Where did you do your internship?

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1 A. I did it at NYU Medical.
2 Q. When did you take the test?
3 A. That's what I was just saying. I
4 believe it was 1998.
5 Q. What is the name of the organization
6 that sets forth these requirements, monitors it,
7 and gives the test and certification?
8 A. So there's two parties that work
9 together. There's the Academy of Nutrition and
10 Dietetics, AND, but then the accrediting
11 organization I believe is CDR, which is -- what
12 is CDR? Commission on Dietetics. How is CDR --
13 Commission on Dietetics and something. CDR.
14 Q. Okay. And are those -- that
15 certification is something you maintain and you
16 have today?
17 A. Yes.
18 Q. Okay. I notice you have some
19 initials behind your name frequently. I looked
20 at all your books going back to a few years. You
21 had fewer initials back then, but now you seem to
22 have MS, RD, and CDN.
23 A. Yes.
24 Q. MS is the master of science --
25 A. Yes.

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1 think we went through each one -- from my memory,
2 we went through and saw okay, so she had her
3 oatmeal or whatever it was and she did this and
4 this. I'm saying she looked -- I said before she
5 looked like she was not eating every single thing
6 she could be eating. She went a little lower
7 than she was supposed to.

8 Q. Are you saying that the --

9 A. I'm saying --

10 Q. -- diet that appears on that,
11 whatever, table is not in compliance with what's
12 required by the Smart Card and the GOLO Diet?

13 MR. SAFIER: To the extent you know.

14 A. It's hard to say because I don't know
15 how much oil she put into her, let's say, salmon.
16 I don't know exactly how much was in each thing.
17 I think she was fairly compliant.

18 Q. Okay.

19 A. It was somewhat representative.

20 Q. I thought you made that judgment or
21 looked at them. We'll look at that.

22 A. I said the one thing I remember
23 taking note of was the lack of protein at dinner.

24 Q. You also went on to say you could
25 probably follow a plan like this without paying

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1 that \$50 a month and taking the supplement.

2 A. Mm-hmm.

3 Q. Upon what basis do you have to
4 indicate that the results would be as great
5 without the supplement that you just --

6 A. Because -- actually just based on the
7 fact that it is a fairly healthy diet. It's a
8 fairly healthy, reasonable, basic, following
9 decent macronutrient diet.

10 Q. Thank you. I appreciate that. But
11 she did in fact -- and got results that she lost
12 weight. She did in fact use the Release. So you
13 can't use her as an example. And do you know
14 anyone else who has followed the exact GOLO Diet
15 and had similar results? Because that's what
16 you're saying here to the audience.

17 A. No. I'm saying you probably --
18 probably meaning -- because the GOLO Diet is a
19 very fair and reasonable diet. It's no different
20 than 98 percent of the diets out there. No
21 disrespect to it, but it's a -- in a positive way
22 it's a vegetables, lean protein, lean healthy
23 fat. It's basic things we say every day.

24 Q. Okay.

25 A. So the biggest -- the biggest

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1 benefits to diets are often -- often they're good
2 diets. Most of the good diets out there are
3 accountability factor and following a plan. So
4 what I was making the point was this is a
5 reasonable, healthy, basic diet. If you need the
6 accountability and you want the structure -- and
7 even for the placebo effect, by the way, taking a
8 pill for people -- sometimes placebo effect is
9 good and that's not even necessarily a bad thing.
10 Saying but you could probably follow a healthy
11 diet like this, have some oatmeal, have some
12 salmon, have some vegetables and also lose
13 weight.

14 Q. Okay.

15 A. I don't think it was anything so bad.
16 I don't think -- like I said, I don't --

17 Q. But you have no actual basis of
18 comparison? An actual test, that is. I know you
19 have background. I understand exactly what
20 you're saying. Makes sense. But all you had
21 here was one woman who supposedly followed the
22 diet and lost weight but also took the Release.
23 You don't have another human being who followed
24 the diet without taking the Release to compare
25 and contrast? That's correct as we sit here

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1 or how she prepared it, correct?

2 A. I do not know how she prepared the
3 rest of her food.

4 Q. And that could affect how many
5 calories were in --

6 A. Yes.

7 Q. Okay. During the TV segment you
8 mentioned three prices associated with the GOLO
9 Diet, twice you said \$50 per month and once you
10 said \$50 per day; is that correct?

11 A. Yes.

12 Q. Based on your understanding of how
13 audiences are, which of those numbers do you
14 think the audience is more likely to believe?

15 MR. TILLERY: Objection.

16 A. \$50 per month.

17 Q. Why is that?

18 A. Because I said it twice, first of
19 all, and second of all, it's just \$50 a day is
20 excessive. It's not -- it wouldn't be realistic.

21 Q. Okay. Thank you. Nothing further.

22 MR. TILLERY: I could ask you more
23 questions, but I'm not going to.

24 THE WITNESS: Thank you.

25 (Time noted: 4:37 p.m.)

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1 C E R T I F I C A T E

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3 STATE OF NEW YORK)

4)

5 COUNTY OF NEW YORK)

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7 I, MICHELE MOSKOWITZ, a Shorthand Reporter
8 and Notary Public within and for the State of New
9 York, do hereby certify:

10 That KERI GLASSMAN, the witness whose
11 examination is hereinbefore set forth, was duly
12 sworn by me and that this transcript of such
13 examination is a true record of the testimony
14 given by such witness.

15 I further certify that I am not related to
16 any of the parties to this action by blood or
17 marriage and that I am in no way interested in
18 the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand this 26th day of January, 2018.

21 No read and sign requested.

22

23

Michele Moskowitz

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25 MICHELE MOSKOWITZ